

**THE UNITED STATES BANKRUPTCY COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

IN RE:	:	
JAMES JEFFREY ERB	:	BK. No. 5:19-bk-01819-RNO
A/K/A JAME ERB A/K/A JAMES J. ERB	:	
Debtor	:	Chapter No. 7
	:	
BANK OF AMERICA, N.A.	:	
Movant	:	
v.	:	
JAMES JEFFREY ERB	:	11 U.S.C. §362
A/K/A JAME ERB A/K/A JAMES J. ERB	:	
and	:	
WILLIAM G SCHWAB, ESQUIRE (TRUSTEE)	:	
Respondents	:	

MOTION FOR RELIEF FROM THE AUTOMATIC STAY

BANK OF AMERICA, N.A. ("Movant") hereby moves this Court, pursuant to 11 U.S.C §362, for relief from the automatic stay with respect to certain real property of the Debtor having an address of 124 TWIN OAK DRIVE, LEVITTOWN, PA 19056 (the "Property"), for all purposes allowed by the Note (defined below), the Mortgage (defined below), and applicable law, including but not limited to the right to foreclose. In further support of this Motion, Movant respectfully states:

1. The Debtor has executed and delivered or is otherwise obligated with respect to that certain promissory note in the original principal amount of \$232,942.00 (the "Note") which was then amended by an Amended and Restated Note in the principal amount of \$274,362.11 ("Amended and Restated Note"). Copies of the Note and Amended and Restated Note are attached hereto as Exhibit "A". Movant is an entity entitled to enforce the Note.

2. Pursuant to that certain Mortgage, dated 01/14/2008 and recorded in the office of the Recorder of Deeds of BUCKS County, Pennsylvania, (the "Mortgage"), all obligations (collectively, the "Obligations") of the Debtor under and with respect to the Note and the

Mortgage are secured by the Property. A copy of the Mortgage is attached hereto as Exhibit "B".

3. All rights and remedies under the Mortgage have been assigned to the Movant pursuant to an assignment of mortgage. A copy of the assignment of mortgage is attached hereto as Exhibit "C".

4. As of 05/15/2019, the outstanding amount of the Obligations less any partial payments or suspense balance is \$290,248.87.

5. Debtor has failed to tender payments for the months of May 2017 through May 2019. The monthly payments for May 2017 through August 2017 are \$1,408.15 each, the monthly payments for September 2017 through November 2018 are \$1,418.77 each, the monthly payments for December 2018 through May 2019 are \$1,407.85 each.

6. Upon information and belief, the encumbrances on the Property listed in the Schedules or otherwise known, including but not limited to the encumbrances granted to Movant, listed in order of priority are: (i) Movant \$290,248.87.

7. The amount of the next monthly payment of the Debtor(s) under the terms of the Note and Mortgage is \$1,407.85.

8. A foreclosure proceeding with respect to the Property is pending and, prior to the filing of the bankruptcy, a sheriff sale was scheduled.

9. Cause exists for relief from the automatic stay for the following reasons:

(a) Movant's interest in the Property is not adequately protected. Movant's interest in the collateral is not protected by an adequate equity cushion.

(b) Pursuant to 11 U.S.C. § 362(d)(2)(A), Debtor has no equity in the Property; and pursuant to § 362(d)(2)(B), the Property is not necessary for an effective reorganization.

WHEREFORE, Movant prays that this court issue an Order terminating or modifying the

stay and granting the following:

1. Relief from the stay for all purposes allowed by the Note, the Mortgage, and applicable law, including but not limited allowing Movant (and any successors or assigns) to proceed under applicable non-bankruptcy law to enforce its remedies to foreclose upon and obtain possession of the property and any and all other collateral pledged under the Mortgage.
2. That the Order be binding and effective despite any conversion of this bankruptcy case to a case under any other chapter of Title 11 of the United States Code.
3. For such other relief as the Court deems proper.

Very truly yours,

/s/ Sherri J. Smith, Esquire

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